

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

T-M VACUUM PRODUCTS, INC.	§	CIVIL ACTION NO.
Plaintiff	§	09-00095
	§	
V	§	CIVIL
	§	JURY
JOHN B. BERRY, et ux	§	
Defendants	§	

MOTION TO ABATE DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes **JOHN B. BERRY and PATRICIA P. BERRY**, Defendants herein, and hereinafter referred to as “Defendant”, or “Defendants” or “Counter Plaintiff”, and files this Motion to Abate Discovery in this case , and would respectfully show the Court the following:

I

Defendants request this Court to abate all discovery pending the decision of the 5th Circuit Court on the underlying case. This case is a suit by Plaintiff assuming that they have won the underlying suit. The underlying suit is on appeal and arguments were had on June 2, 2009. If the 5th Circuit reverses the judgment of the District court, the present suit is premature and will have to be dismissed or abated. Plaintiff has sent out a comprehensive set of Requests for Production which inquire about many matters that are only material if Plaintiff has a final judgment and is attempting to collect same.

II.

Attached hereto as exhibit “A” is the present discovery that Defendants seek to have abated. This motion is not made to hinder or delay justice, but only that justice may be done.

Wherefore premises considered, Defendant prays that the Court order a hearing , and following the hearing the discovery be abated until 30 days after the underlying judgment has become final. Defendants pray for all relief to which they are entitled.

Respectfully submitted,

By /s Thomas G. Bousquet

THOMAS G. BOUSQUET

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ATTORNEY FOR DEFENDANTS/
COUNTER PLAINTIFFS

OF COUNSEL:
BOUSQUET & DEVINE, P.C.

CERTIFICATE OF SERVICE

I certify that a true copy of the above document was served in accordance with the Federal Rules of Civil Procedure on June 10, 2009, as follows:

H. Miles Cohn
Sheiness, Scott, Grossman & Cohn
1001 McKinney, Suite 1400
Houston, TX 77002

/s/ Thomas G. Bousquet

THOMAS G. BOUSQUET

CERTIFICATE OF CONFERENCE

Defendant's attorney requested that the relief being requested herein be accomplished by agreement, however, Plaintiff's counsel was unable to agree to same.

/s/ _____
Thomas G. Bousquet

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T-M VACUUM PRODUCTS, INC.
Plaintiff

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CIVIL ACTION NO.
09-00095

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JURY

JOHN B. BERRY, et ux
Defendants

ORDER

The above and forgoing Motion to Abate Discovery being presented to the Court, and the Court being of the Opinion that such motion should be granted

It is the Order of this Court that all discovery be abated until 30 days following the final disposition of the underlying case pending between Plaintiff and T.A.I.S.C., INC. d/b/a Globalease Solutions, Inc. being **Civil Action No. 07-4108**, presently on Appeal to the 5th Circuit Court.

Signed this ____ day of _____ 2009

Judge